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ATTORNEY FOR PLAINTIFF
UNITED STATES OF AMERICA

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BUTTE DIVISION

UNITED STATES OF AMERICA, Plaintiff, vs. DONALD MITCHELL JOHNSON, <i>aka Ski Johnson,</i> Defendant.	CR 14-28-BU-DLC OFFER OF PROOF
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THE CHARGE

The defendant, Donald Johnson, is charged in an Indictment with one count of Wire Fraud in violation of 18 U.S.C. § 1343.

ELEMENTS

In order for the defendant to be found guilty of Wire Fraud, the United States must prove each of the following elements beyond a reasonable doubt:

First, the defendant knowingly devised or intended to devise a scheme or plan to defraud, or a scheme or plan for obtaining money or property by means of false or fraudulent pretenses, representations, or promises;

Second, the statements made or facts omitted as part of the scheme were material; that is, they had a natural tendency to influence, or were capable of influencing, a person to part with money or property;

Third, the defendant acted with the intent to defraud, that is, the intent to deceive or cheat; and

Fourth, the defendant used, or caused to be used, a wire communication to carry out or attempt to carry out an essential part of the scheme.

PENALTY

The defendant is subject to twenty years imprisonment, a \$250,000 fine, three years supervised release, and a \$100 special assessment.

ANTICIPATED EVIDENCE

If this case were tried in United States District Court, the government would prove the following:

From 2011 to 2014, Johnson devised a scheme to defraud by misrepresenting that he is a Grammy nominated artist soliciting funds for a cancer foundation. In reality, Johnson was never nominated for a Grammy, and he used contributions for his personal expenses.

In May 2012, Johnson contacted B.R., Vice President of Big Sky Resort, using the alias Kevin Wright. Big Sky Resort was partnering with Big Brother Big Sisters of Gallatin County to put on a charity golf tournament. “Wright” claimed he was a Sony Records representative and an agent of Grammy-nominated saxophonist Ski Johnson. He also claimed that Johnson headed the Jazz for Life Foundation, which assists children with cancer.

Wright stated that Johnson would donate two Grammy tickets to Big Brothers Big Sisters with one half of the proceeds going to Big Brothers Big Sisters and the other half going to Jazz for Life. Grammy tickets may not be transferred or resold, and Grammy tickets provide that tickets obtained in contravention of their terms will not be honored, and their holders shall be deemed trespassers. Big Brothers Big Sisters paid for Johnson and his manager’s travel expenses, lodging, food, and green fees.

Big Brothers Big Sisters held the tournament on July 16, 2012, and auctioned the tickets for a winning bid of \$6000. On July 17, 2012, A.R., Special Events Coordinator for Big Brothers Big Sisters, sent an email to Johnson’s associate D.C. asking for a mailing address to send the Grammy ticket proceeds. Later that day, “Kevin Wright” wrote back and provided Johnson’s home address. The email was routed through AOL’s server in Dulles, Virginia.

FBI Special Agent Greg Rice and IRS Special Agent Brett Seamons interviewed Johnson on April 1, 2014. Johnson admitted he is not a Grammy nominated artist. Johnson stated he wrote that he is Grammy nominated on his website because he needed the press. Johnson admitted that he goes by Kevin Wright in order to market himself. Johnson further admitted that Jazz for Life is not a real cancer foundation, and he used the Jazz for Life for his personal expenses when he knew that he should not have. Johnson stated that he did not give any donations to charities or societies to help children.

PLEA OFFERS

The United States presented any and all formal plea offers to the defendant in writing. In particular, on February 25, 2015, the United States extended a plea offer in which the government agreed to recommend the low end of the sentencing guideline range as calculated by the Court in exchange for a plea of guilty.

DATED this 13th day of April, 2015.

MICHAEL W. COTTER
United States Attorney

/s/ Chad C. Spraker
Assistant U.S. Attorney
Attorney for Plaintiff